

# **EXHIBIT F**



Federal Communications Commission  
Washington, D.C. 20554

July 19, 2011

Joseph I. Marchese  
369 Lexington Ave.  
10<sup>th</sup> Floor  
New York, NY 10017  
[jmarchese@bursor.com](mailto:jmarchese@bursor.com)

Re: Freedom of Information Act Request  
Control No. 2011-445

Dear Mr. Marchese:

This responds to your Freedom of Information Act (FOIA) request, which the Federal Communications Commission's (Commission's) FOIA Office received on June 21, 2011.<sup>1</sup> The FOIA Office assigned your request FCC FOIA Control No. 2011-445. You request "an unredacted copy of the Declaration of Colin B. Weir, dated June 20, 2011 and filed in WT Docket No. 11-65."

The document you request contains data subject to the NRUF/LNP Protective Order, DA 11-711 in Docket No. 11-65. Such information is not available to the public except pursuant to terms of the NRUF/LNP Protective Order. Moreover, the data contained in the document you request contains disaggregated, carrier-specific forecast and utilization information. The Commission has recognized that such information is competitively sensitive and should be treated as confidential. *See* 15<sup>th</sup> CMRS Competition Report, at 109, note 533, and Table C-3 at 250, [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0627/FCC-11-103A1.doc](http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0627/FCC-11-103A1.doc). Accordingly, pursuant to FOIA Exemption 4 (confidential commercial information), your request is denied. *See* 5 USC 552(b)(4); 47 CFR 0.457(d).

This determination does not end our analysis, however. The FOIA requires that records be reviewed to determine if any segregable portions can be released. 5 U.S.C. § 552(b) (sentence immediately following exemptions). We have reviewed the records and determined that no portions may be segregated and released on this basis. We also reviewed the records to determine if discretionary release is appropriate. *See Memorandum to Heads of Executive Departments and Agencies, Freedom of Information Act*, 74 FR 4683 (2009) (President Obama's memorandum concerning the FOIA); *The Freedom of Information Act (FOIA)*, available at <<http://>

---

<sup>1</sup> FOIA request from Joseph I. Marchese, to FOIA Office, Federal Communications Commission, filed June 22, 2011 (FOIA Request).

[www.usdoj.gov/ag/foia-memo-march2009.pdf](http://www.usdoj.gov/ag/foia-memo-march2009.pdf) (Attorney General Holder's FOIA Memo). Because of the nature of these records, we have determined that none is appropriate for discretionary release.

You have been categorized as a commercial requester under the FOIA, responsible for all direct costs of search and review (47 C.F.R. § 0.470 (a)(1)), billed at the published hourly rate for the Federal employee(s) performing the search and review (47 C.F.R. § 0.467(a)), and copying charges at 10¢ per page for records located and released to you (47 C.F.R. § 0.465(c)(2)). You are responsible for all search and review charges even if no records are released. 47 C.F.R. § 0.467(b). No fees will be assessed for processing your request. 47 C.F.R. § 0.470(f).

If you consider this to be a denial of your FOIA request, you may file an application for review with the Office of General Counsel within thirty (30) days of the date of this letter. 47 C.F.R. § 0.461(j).

Sincerely,



Nese B. Guendelsberger  
Chief, Spectrum & Competition Policy Division  
Wireless Telecommunications Bureau